

## REMARKS/ARGUMENTS

### I. NON-PRIOR ART MATTERS

- A. The Office Action objected to claim 5 as depending on itself.

Claim 5 is amended herein.

### II. PRIOR ART MATTERS

- A. The Office Action rejected claim 10 under 35 USC 102(b) as being anticipated by Ackerman. Applicant respectfully traverses this rejection.

A single prior art reference anticipates a claimed invention only if it discloses each and every claim element.<sup>1</sup>

Claim 10 has been amended by incorporating the elements and limitations of allowable claim 11 therein.

Claim 10 is therefore allowable.

Claim 11 has been cancelled.

- B. The Office Action rejected claim 12 as being unpatentable under 35 USC 103(a) over Ackerman in view of Kesting. Applicant respectfully traverses this rejection.

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness.<sup>2</sup> If the Examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of non-obviousness.<sup>3</sup>

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations. The teaching or suggestion to make the claimed combination and the reasonable

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<sup>1</sup> *Structural Rubber Prod. Co. v. Park Rubber Co.*, 749 F.2d 707, 223 USPQ 1264 (Fed. Cir. 1984)

<sup>2</sup> MPEP Sec. 2142.

<sup>3</sup> *Id.*

expectation of success must both be found in the prior art, and not based on applicant's disclosure.<sup>4</sup>

Applicant respectfully traverses the § 103 rejection because the office action has not established a *prima facie* case of obviousness.

The references do not teach or suggest all the claim limitations.

Claim 12 contains additional elements or limitations beyond allowable claim 10 and is therefore allowable.

Applicant thanks the Examiner for indicating the allowable subject matter.

For the above reasons, Applicant respectfully requests the allowance of all claims and the issuance of a Notice of Allowance.

Respectfully submitted,

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<sup>4</sup>Id. (emphasis supplied)